

P-421/M-89-493 APPROVING TARIFF FILING FOR IMPROVED TERMINATION, PRICE
LISTS FOR REVERSE BATTERY AND DATA CHANNEL TERMINATING EQUIPMENT AND
DIRECTING NORTHWESTERN BELL TO FILE ITS PRIVATE LINE SERVICE TARIFFS AND
PRICE LISTS IN A SINGLE BOOK

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
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In the Matter of Northwestern Bell
Telephone Company's Request to Place
Three Optional Features in the Private Line
Transport Service Tariff and Price List

ISSUE DATE: December 26, 1989

DOCKET NOS. P-421/M-89-493
P-421/EM-89-688
P-421/EM-89-689

ORDER APPROVING TARIFF FILING FOR
IMPROVED TERMINATION, PRICE LISTS
FOR REVERSE BATTERY AND DATA
CHANNEL TERMINATING EQUIPMENT
AND DIRECTING NORTHWESTERN BELL
TO FILE ITS PRIVATE LINE SERVICE
TARIFFS AND PRICE LISTS IN A SINGLE
BOOK

PROCEDURAL HISTORY

Over the past six months, Northwestern Bell (the Company) has submitted several different filings with respect to three "optional features" to be offered in conjunction with its private line transport service (PLTS). The Commission finds that these optional features are the equivalent of "services" and will designate and treat them as such in this Order. The three optional features/services are denominated as follows:

1. Reverse Battery on Channel Performance (RB);
2. Data Channel Terminating Equipment (DCTE); and
3. Improved Termination.

On June 30, 1989, the Company filed tariffs for these three services. Docket No. P-421/M-89-493.

On July 7, 1989, the Company elected to be subject to Minn. Stat. § 237.58, Subdivision 1 and announced that it was preparing to file price lists to replace the tariffs on file for competitive services.

On July 21, 1989, the Department acknowledged receipt of the Company's notice of election and notified the Company that it would handle all subsequent filings in accordance with that election.

On August 21, 1989, the Company withdrew its previously filed tariff pages regarding Improved Termination and filed new tariff pages for that optional service. Docket No. P-421/EM-89-688. The Company also replaced its June 30, 1989 tariff filings for Reverse Battery and DCTE with price lists. Docket No. P-421/EM-89-689.

On September 12, 1989, the Company filed new price lists and tariffs for these three optional services, implementing its August 21, 1989 filings.

On September 21, 1989, the Department of Public Service (the Department) filed its recommendation that the Commission initiate an investigation into the Company's classification of services subject to emerging competition.

On September 28, 1989, the Department filed its Report and Recommendation regarding the Company's proposed tariff and price lists for these three services and the Company filed its response to the Department's report on October 9, 1989. On October 24, 1989, the Department filed an Addendum to its Report.

The matter came before the Commission for decision on December 12, 1989.

FINDINGS AND CONCLUSIONS

On December 12, 1989, at a meeting of the Commission attended by both Department and Company representatives, Commission Staff presented the parties' joint recommendation for disposition of these matters.

Settlement of disputes is encouraged as a matter of Commission policy as well as statutory law. Minn. Stat. § 237.076, Subdivision 1 provides:

In proceedings before the Commission, interested parties are encouraged to enter into settlements of their disputes.

However, the parties' settlement or recommended disposition of matters is not binding upon the Commission, as the statute clearly states:

The commission may accept a settlement upon finding that to do so is in the public interest and is supported by substantial evidence. Minn. Stat. § 237.076, Subdivision 2.

The Commission must make its own determination of the merits of the matters which come before it, especially in the area of determining the application of statutory regulatory procedures and whether rates are fair and reasonable as required by Minn. Stat. § 237.06.

In light of the facts of record in this matter and the limitation on the Order requested by the parties, the Commission finds that their recommendations are in the public interest and supported by substantial evidence. The limitation requested is that this Order shall not constitute a precedent regarding the procedural and definitional issues which are to be decided in Docket No. P-421/EM-89-694. The Commission agrees that those issues merit careful examination, including full analysis and argument by the parties. Therefore, the procedural and classification decisions reached today will be for purposes of this proceeding only.

Improved Termination: Improved Termination is a non-competitive service. As such, the Company's election under Minn. Stat.

§ 237.57 for alternate regulation is not relevant. The service must be tariffed. The proposed price for Improved Termination exceeds the cost estimates for providing the service filed by the Company. In addition, the Commission finds that the Company's proposed tariff is just and reasonable. Under these circumstances, the Commission will accept the joint recommendation of the parties and will approve this tariff as part of the Company's private line tariff effective August 31, 1989.

Reverse Battery on Channel Performance (RB) and Data Channel Termination Equipment (DCTE): These are options used in connection with private line service. Since private line service has been classified as "emergingly competitive" by Minn. Stat.

§ 237.59, Subdivision 1 (12), the options offered in connection with them (RB and DCTE) are also treated as "emergingly competitive". Accordingly, a company which has elected alternate regulation pursuant to Minn. Stat. § 237.60 may file price lists rather than tariffs and these price lists will be approved as provided by that statute. In this case, the Company's filings meet the statutory requirements: the Company's cost studies show that the proposed price for these options exceeds the cost of providing the services and the Commission finds that the Company's price lists for these services are fair and reasonable. Under these circumstances, the Commission will adopt the joint recommendation of the parties for these two services. The Commission will approve the proposed price lists as part of the Company's private line price list book with an effective date as provided by Minn. Stat. § 237.60, ten (10) days after filing, August 31, 1989.

Single Tariff/Price List Book Required: The Company currently has two books regarding its private line service. One contains the private line tariff and the other contains the private line price list. To reduce confusion and potential errors regarding the rates for these services, the Company should file a single book which incorporates both the private line tariff and the private line price list and the Commission will so order.

The docket opened to process tariffs for these three services on June 30, 1989 is Docket No. P-421/M-89-493. This docket is superceded by Docket Nos. P-421/EM-89-688 and 689 and should be closed.

Finally, issues relating to the classification of services as emergingly competitive or non-competitive

will be fully addressed in subsequent proceedings before the Commission, e.g. Docket No. P-421/EM-89-694.

ORDER

1. The tariff for Improved Termination proposed by Northwestern Bell Telephone Company in its filing of August 21, 1989 is approved, effective August 31, 1989.
2. The price lists for Reverse Battery on Channel Performance and Data Channel Termination Equipment proposed by Northwestern Bell Telephone Company in its filing August 21, 1989 are approved, effective August 31, 1989.
3. Within thirty (30) days of the issue date of this Order, Northwestern Bell Telephone Company shall file a single book incorporating both its private line tariff and private line price list.
4. Docket No. P-421/M-89-493 shall be closed.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Lee Larson
Acting Executive Secretary

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